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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,824	02/09/2004	Thomas A. Ruedy		9783

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EXAMINER
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PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/773,824

Applicant(s)

RUEDY, THOMAS A.

Examiner

Hau V. Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.
2. The information disclosure statement filed 2/9/2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

***Specification***

3. The specification is objected to because the space between paragraphs should be deleted. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Regarding claims 1-17, the claims have a period between the claim and capital letter in the claim. The claims should be rewritten in one sentence form only.

Regarding claim 1, line 3-8, the phrase "The present apparatus, a system for conveying individuals, comprises a Mainframe, a Seat connected to the Mainframe, Front Extension Handles that are pivotally connected to the Mainframe by a Shaft for pulling the transporter on a One-Wheel or Ski Support Structure. The One-Wheel or

Ski Support Structure is also pivotally connected to the Mainframe on the Shaft for directly supporting the weight of the user” is not clear, because the claim seem to repeat the limitations from line 1-3.

6. Claims 2-17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. For example claim 2, “a mainframe assembly comprises of two side support structure” has been claim in claim 1. It is unclear, which one is a further limitation in the claim.

7. Regarding claim 17, It is not clear. The phrase “the preferred embodiment is well suite .....” should be deleted.

8. Regarding claims 1-17, application needs to rewrite the claims to correct all the indefinite and functional or operational language.

9. Regarding claim 1, recite “the one wheel or ski support structure”, which is unclear, because the preamble recite the transport apparatus, but in body of claim recite a one wheel or ski support structure.

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**11. Claim 1 is alternatively rejected under 35 U.S.C. 102(b) as being anticipated by Mileham (GB 2,210,337).**

Mileham in figures 1-2, discloses a single wheeled pushchair having a structure, which is capable of transport disable individuals comprising a mainframe with a seat having a backrest. The mainframe has two side support structures with extension handles projecting rearwardly behind the seat. The front extension handle pivotally connected to the mainframe by a shaft for pulling the transporter on a one wheel or ski support structure (as shown in figure 2). The mainframe includes a wheel (2) at a front of the mainframe for allowing the single wheeled to transverse rough terrain during operation. The seat has a curve that conforms to the user's body and webbing straps woven between the two side structures to support the user's body weight. The wheel with tire is made of durable material with large, gripping treads suitable for rugged travel.

***Claim Rejections - 35 USC § 103***

**12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**13. Claims 1-4, 6-9, 11, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitmire (6,736,417) in view of Rhodes et al. (5,687,978).**

Whitmire in figure 1-5A, discloses a transport apparatus for disable individuals comprising a mainframe (20) with a seat (31) having a backrest (32). The mainframe has two side support structures with extension handles (10) projecting rearwardly behind the seat. The front extension handle connected to the mainframe by a shaft for pulling the transporter on a one wheel or ski support structure. The mainframe includes a wheel (40) at a front of the mainframe for allowing the single wheeled to transverse rough terrain during operation. The seat has a curve that conforms to the user's body and webbing straps woven between the two side structures to support the user's body weight. The wheel with tire is made of durable material with large, gripping treads suitable for rugged travel. Whitmire fails to show the handle pivotally connected to the mainframe.

Rhodes et al. in figure 1, teach a foldable load conveyance comprising a mainframe and handles (54) pivotally connected to the mainframe. Rhodes et al. also disclose connected members (68) mounted through the handle connector holes (32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the transport apparatus for disable of Whitmire with the foldable load conveyance having handles pivotally connected to a mainframe as taught by Rhodes et al. in order to provide multiples uses such as acting as a support to the mainframe.

Regarding claim 13, Whitmire discloses a handbrake lever (19) and brake. The handbrake lever is detachably mounted to the left extension handle at the rear of the mainframe. The brake mechanism mounted at the wheel to slow the transporter while in use and to provide a safety operation.

Regarding claim 14, Whitmire discloses a footrest (34) to support the lower extremities and feet of the user.

Regarding claim 15, Whitmire discloses four kickstands, which are mounted near the rear-most end of the rear push handle and above the footrest at the base of the front of the mainframe beneath the seat.

Regarding claim 17, Whitmire discloses handgrip portion at the front extension handle thereto.

**14. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitmire (6,736,417) in view of Rhodes et al. (5,687,978) as applied to claims 1 and 4 above, and further in view of Sigafoo (4,728,119).**

The combination of Whitmire and Rhodes et al. disclose the seat frame, but fail to show a seatbelt.

Sigafoo in figure 1, teaches a travel chair comprising a seat frame and a seatbelt (38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the transport apparatus for disable of Whitmire in view of Rhodes et al. with the travel chair having a seatbelt as taught by Sigafoo in order to ensure the occupant is secure to the seat frame.

**15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitmire (6,736,417) in view of Rhodes et al. (5,687,978) as applied to claim 1 above, and further in view of Rasbach (2,564,996).**

The combination of Whitmire and Rhodes et al. disclose the seat frame, but fail to show a shock absorber.



Rasbach in figures 2 and 6, teaches a spring caster for trailer and the like comprising a shock absorber (81), which mounted to a mainframe. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the transport apparatus for disable of Whitmire in view of Rhodes et al. with the spring caster for trailer and the like having a shock absorber as taught by Rasbach in order to absorb road shocks.

### ***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Linzy discloses personnel or game carrier, Knapp et al. disclose a game cart, Cockram discloses a collapsible pack cart.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan  
Primary Examiner  
Art Unit 3618

*Hau V Phan*  
*1/26/06*